

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**KWAITEL JACKSON**

**PLAINTIFF**

**VS.**

**CAUSE NO. 4:18CV181-SA-JMV**

**CITY OF LELAND, LELAND POLICE DEPARTMENT;  
MAYOR KENNY THOMAS, Individually and in his Official  
Capacity; CHIEF BILLY BARBER, Individually and in his  
Official Capacity; OFFICER COREY WEATHERSPOON,  
Individually and in his Official Capacity, and DEFENDANTS  
ROBERT L. COMBS, in his Individual and Official Capacity,  
and KAYLAN M. JAMES, in his Individual and Official Capacity      DEFENDANTS**

**REBUTTAL SUPPORTING DISMISSAL OF FEDERAL CLAIMS  
AND/OR JUDGMENT ON THE PLEADINGS**

**NOW COME** Defendants, City of Leland, Leland Police Department, Mayor Kenny Thomas, Individually and in his Official Capacity, and Chief Billy Barber, Individually and in his Official Capacity, by and through counsel, and file this Rebuttal Supporting Dismissal and/or Judgment on the Pleadings as to claims arising under federal law, to-wit:

1. Plaintiff does not dispute dismissal of the Leland Police Department, Chief Billie Barber, and Mayor Kenny Thomas.

2. Plaintiff further urges the Court to require the still unserved individual defendants, Robert L. Combs and Kaylan M. James, to file appropriate qualified immunity motions. Respectfully, that is not in the movant's power as the newly added individuals have yet to be served. Moreover, by simply raising the same beginning with, but not limited to, their answer upon service as provided by *Fed. R. Civ. Proc.* 8(c).<sup>1</sup>

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<sup>1</sup>*Pasco v. Knoblauch*, 566 F.3d 572, 577 (5th Cir. 2009)(Collective examples).

**NOW, THEREFORE**, these Defendants respectfully pray that this Court dismiss the Leland Police Department, Chief Billy Barber, and Mayor Kenny Thomas and hereafter be listed as terminated on the docket of this case pursuant to Fed. R. Civ. P. 12(e) with the instant Complaint dismissed as to them.

**RESPECTFULLY SUBMITTED** this the 24<sup>th</sup> day of June, 2019.

**JACKS GRIFFITH LUCIANO, P.A.**

By: /s/ **Daniel J. Griffith**

Daniel J. Griffith, MS Bar No. 8366

Attorney for Defendants City of Leland, Leland Police Department, Mayor Kenny Thomas, Individually and in his Official Capacity, and Chief Billy Barber, Individually and in his Official Capacity

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**CERTIFICATE OF SERVICE**

I, Daniel J. Griffith, counsel for Defendants, in the above case, do hereby certify that I have this day caused a true and correct copy of the above and foregoing *Rebuttal Supporting Motion to Dismiss Federal Claims and/or Judgment on the Pleadings* to be delivered via ECF filing to all counsel of record.

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**FILED** this 24<sup>th</sup> day of June, 2019.

/s/ **Daniel J. Griffith**  
Daniel J. Griffith